UNITED NATIONS **E**

Economic and Social Council

Distr.
GENERAL

E/CN.4/2001/SR.78
1 May 2001

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Fifty-seventh session

SUMMARY RECORD OF THE 78th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 25 April 2001, at 3 p.m.

Chairperson: Mr. DESPOUY (Argentina)

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GE.01-13681 (E)

The meeting was called to order at 3.20 p.m.

PROMOTION AND PROTECTION OF HUMAN RIGHTS:

(a) STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS;

(b) HUMAN RIGHTS DEFENDERS;

(c) INFORMATION AND EDUCATION;

(d) SCIENCE AND ENVIRONMENT;

(agenda item 17) (continued) (E/CN.4/2001/L.77/Rev.1, L.78, L.87, L.88, L.93, L.95, L.96 and L.103; E/CN.4/2001/2-E/CN.4/Sub.2/2000/46, chapter I, draft decisions 11, 12 and 14)

Draft decision on the enhancement of international cooperation in the field of human rights (E/CN.4/2001/L.78)

1. Mr. MONTWEDI (South Africa), introducing the draft decision, said that the corresponding resolution in previous years had been adopted by consensus.

2. The draft decision was adopted.

Draft resolution on the question of the death penalty (E/CN.4/2001/L.93)

3. Mr. MOLANDER (Observer for Sweden), introducing the draft resolution on behalf of the European Union and the other sponsors, said that the universal abolition of the death penalty was one of the main objectives of the Union's human rights policy since the death penalty contravened the right to life.

4. Mrs. IZE-CHARRIN (Secretary of the Commission) said the representative of the Russian Federation and the observers for Cambodia and Monaco had become sponsors of the draft resolution.

5. Mr. SABHARWAL (India), speaking in explanation of vote before the voting, said that the international community had not yet a reached a consensus on the issue of capital punishment, as had been brought out clearly by the consideration of a draft resolution on the subject in the General Assembly. The cause of abolitionism, and its recognition as a human rights issue, could be achieved only gradually.

6. His delegation agreed with the need to resort to capital punishment only for the most serious crimes and through the due process of law, in strict accordance with international human rights standards. In India, the death penalty was imposed only in the rarest of cases, where the crime committed was particularly heinous. It was therefore the exception rather than the rule. Death sentences had to be confirmed by a superior court and the accused had the right to appeal to the High Court or the Supreme Court and to file a mercy petition before the Governor of the

state concerned or the President of India. The death penalty was suspended in the case of pregnant women. Juvenile offenders could not be sentenced to death under any circumstances.

7. However, the draft resolution asked States not to execute any person as long as any related legal procedure at the international level was pending. That was unacceptable, for the only procedures that applied were those contained in national law. States were also asked to establish a moratorium on executions and to refuse extradition to countries where the laws provided for the death penalty. Those elements of the draft resolution were also totally unacceptable. He therefore requested a vote on the retention of paragraphs 4 (f), 5 (b) and 6 of the draft resolution. His delegation would vote against those paragraphs.

8. At the request of the representative of India, a vote was taken by roll-call on the retention of paragraphs 4 (f), 5 (b) and 6.

9. The Republic of Korea, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Argentina, Belgium, Brazil, Canada, Colombia, Costa Rica, Czech Republic, Democratic Republic of the Congo, Ecuador, France, Germany, Italy, Latvia, Mauritius, Mexico, Norway, Peru, Poland, Portugal, Romania, Russian Federation, South Africa, Spain, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela.

Against: Algeria, China, Cuba, India, Indonesia, Japan, Libyan Arab Jamahiriya, Malaysia, Nigeria, Pakistan, Qatar, Republic of Korea, Saudi Arabia, Swaziland, Syrian Arab Republic, Thailand, United States of America, Viet Nam.

Abstaining: Burundi, Cameroon, Guatemala, Kenya, Madagascar, Senegal, Zambia.

10. It was decided by 26 votes to 18, with 7 abstentions, that paragraphs 4 (f), 5 (b) and 6 should be retained.

11. Mr. MOOSE (United States), speaking in explanation of vote before the voting, said that his delegation could not support the draft resolution. Capital punishment was not prohibited under international law in cases involving the most serious crimes and when due process was observed. Public debate on the subject continued in his country, but there was universal agreement on the latter principle. It was a matter for each nation to determine for itself.

12. Ms. AL-HAJJAJI (Libyan Arab Jamahiriya) said that her delegation would vote against the draft resolution: the principle of the sovereignty and political independence of States was being eroded on the pretext of humanitarian intervention. Non-interference with the legislation of national authorities was a basic principle; and she found it hard to believe that, if required to do so by a United Nations resolution, countries that had abolished the death penalty, for

example, would restore it. Moreover, the right to life of the condemned person took no account of the right to life of which he had deprived his victim. The victim's rights were of overriding importance. In her country, the death penalty was carried out only for major crimes, such as treason, espionage, destruction of military facilities in wartime, crimes against the State, various forms of pollution and drug trafficking. Abolition of the death penalty might be desirable but could only be gradual, and that over a long period of time. Meanwhile, it was not prohibited under international law.

13. Mr. DEMBRI (Algeria) said that the draft resolution aimed at universality, but its approach was not compatible with the sovereign right of States. He understood the principle whereby life should be protected and irreparable acts should not be committed; yet victims of embargoes imposed by the international community died as surely as a person executed by his Government. The secret services of countries opposed to the death penalty had, on many occasions, assassinated political opponents. The meaning of the death penalty was thus open to various interpretations; the problem would not be solved by the imposition of one interpretation. It would be more fruitful to discuss the establishment of moratoriums: his country had done so in 1993, despite its difficult circumstances. His delegation would, have to vote against the draft resolution as it stood.

14. Mr. CHAIMONGKOL (Thailand) said that, according to a survey conducted in 1999, the majority of Thais were still convinced of the need to retain the death penalty both as a deterrent and to protect the rights of victims. A democratic Government had to abide by the decision of its people and his delegation would thus vote against a draft resolution.

15. The death penalty was applied in practice in Thailand only to the most serious crimes and his Government scrupulously followed the provisions of article 6 of the International Covenant on Civil and Political Rights. As for the means used, lethal injection had replaced the firing squad. All those measures reflected his Government's commitment to the humane treatment of persons facing the death penalty. Preventive measures and rehabilitative schemes, however, to which his Government had devoted considerable efforts, were far more effective in dealing with the problem at its root.

16. At the request of the representative of the United States of America, a vote was taken by roll-call on the draft resolution.

17. India, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Argentina, Belgium, Brazil, Canada, Colombia, Costa Rica, Czech Republic, Democratic Republic of the Congo, Ecuador, France, Germany, Italy, Latvia, Mauritius, Mexico, Niger, Norway, Peru, Poland, Portugal, Romania, Russian Federation, South Africa, Spain, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela.

Against: Algeria, Burundi, China, Indonesia, Japan, Kenya, Libyan Arab Jamahiriya, Malaysia, Nigeria, Pakistan, Qatar, Republic of Korea, Saudi Arabia, Swaziland, Syrian Arab Republic, Thailand, United States of America, Viet Nam.

Abstaining: Cameroon, Cuba, Guatemala, India, Madagascar, Senegal, Zambia.

18. The draft resolution was adopted by 27 votes to 18, with 7 abstentions.

19. Mr. ATTAR (Saudi Arabia) said that his delegation, like those of Algeria, Burundi, China, Indonesia, Japan, Liberia, Libyan Arab Jamahiriya, Malaysia, Nigeria, Qatar, Swaziland, Syrian Arab Republic, Thailand and Viet Nam and 44 observer delegations, dissociated itself from the draft resolution. The delegations concerned had issued a joint statement explaining their reasons, which they would like circulated as an official document of the Commission.

Draft resolution on promotion of the right of peoples to peace (E/CN.4/2001/L.95)

20. Mr. REYES RODRÍGUEZ (Cuba) introduced the draft resolution which aimed to consolidate and promote the international community's conviction that "life without war serve(d) as the primary international prerequisite for the material well-being, development and progress of countries, and for the full implementation of the rights and fundamental freedoms proclaimed by the United Nations", as enshrined in the Declaration on the Right of Peoples to Peace (General Assembly resolution 39/11 of 12 November 1984). Paragraphs 1-3 were drawn from that Declaration, while paragraph 4 was drawn from the Declaration on the Right to Development (General Assembly resolution 52/136 of 12 December 1997).

21. Following extensive open-ended consultations, a significant part of the text and the original title ("human rights and disarmament") had been modified to ensure that the draft resolution would be widely acceptable. The international community must reaffirm the right of peoples to peace as a matter of priority.

22. Mrs. IZE-CHARRIN (Secretary of the Commission) said that the representatives of Kenya and Madagascar, and the observers for Panama and Tunisia, had become sponsors of the draft resolution, which had no financial implications.

23. Mr. NOIRFALISSE (Belgium), speaking in explanation of the position of the European Union and its associated countries, said that some of the issues raised in the draft resolution were better dealt with in other forums. International Peace and Security were essential for the realization of all human rights, including the right to development, but military spending continued to be high. There was therefore a need for Governments to set priorities in favour of development and the promotion and protection of human rights.

24. The draft resolution dealt only with the relationship between States and not with the relationship between a State and its citizens, which was the Commission's core mandate. Moreover, the Declaration on the Right of Peoples to Peace had not been agreed to by consensus.

The Union was also uncomfortable with the idea that there was a right to peace, which was not established in any international human rights instrument. Those members of the Union and associated countries that were members of the Commission would thus vote against the draft resolution.

25. Ms. GERVAIS-VIDRICAIRE (Canada), speaking also on behalf of Norway, said that neither delegation had supported the Declaration on the Right of Peoples to Peace (which had been approved by the General Assembly in 1984 by 92 votes to none, with 34 abstentions). Both delegations maintained their concerns regarding the concept of the "right to peace", including the content of such a right and the specific obligations of States. The draft resolution dealt with matters more appropriately addressed in other forums, such as the General Assembly, Security Council and Conference on Disarmament. She thus urged the members of the Commission to oppose the draft resolution.

26. Mr. MOOSE (United States) said that his delegation was deeply concerned that the draft resolution dealt largely with disarmament and relations between States, issues which were more appropriately addressed in the First Committee of the General Assembly and other forums. The Commission should avoid politicization.

27. At the request of the representative of Belgium, a vote was taken by roll-call on the draft resolution.

28. The Democratic Republic of the Congo, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Algeria, Burundi, China, Costa Rica, Cuba, Democratic Republic of the Congo, Ecuador, Indonesia, Kenya, Libyan Arab Jamahiriya, Madagascar, Malaysia, Mauritius, Mexico, Niger, Nigeria, Pakistan, Peru, Qatar, Russian Federation, Saudi Arabia, South Africa, Swaziland, Syrian Arab Republic, Thailand, Uruguay, Venezuela, Viet Nam, Zambia.

Against: Belgium, Canada, Czech Republic, France, Germany, Italy, Japan, Latvia, Norway, Poland, Portugal, Republic of Korea, Romania, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Argentina, Brazil, Cameroon, Colombia, Guatemala, India, Senegal.

29. The draft resolution was adopted by 29 votes to 16, with 7 abstentions.

30. Ms. KUNADI (India) said that, although the text contained agreed language from various international instruments and although her delegation noted in particular the second preambular paragraph and paragraph 4, it did not consider the Commission to be the appropriate forum for examining disarmament issues.

31. Ms. RUIZ DE ANGULO (Costa Rica), said that she did not agree with the preceding speaker. The Commission was indeed the appropriate forum to address such issues, since

disarmament was crucial to the protection of human rights. The draft resolution complemented other resolutions adopted by the Commission with the aim of promoting a culture of peace. Costa Rica possessed no army, having opted to devote its national resources to education and development.

Draft decision on reservations to human rights treaties (E/CN.4/2001/L.103)

32. Mr. SABHARWAL (India), introducing the draft decision on behalf of the Asian Group, said it related to draft decision 12 recommended to the Commission by the Sub-Commission on the Promotion and Protection of Human Rights (E/CN.4/2001/2-E/CN.4/Sub.2/2000/46, chapter I). The preparation of a comprehensive study on reservations to human rights treaties by one of the Sub-Commission's experts would merely duplicate work being carried out by the International Law Commission on reservations to normative multilateral treaties, including human rights treaties. The Sub-Commission should await the results of that work, especially in view of the pronouncement by that Commission that, in the event of the inadmissibility of a reservation, it was the reserving State that had the responsibility for taking action.

33. Mrs. IZE-CHARRIN (Secretary of the Commission) said that the draft decision had no financial implications.

34. The draft decision was adopted.

Draft decision on the observance of the human rights and fundamental freedoms contained in the Universal Declaration of Human Rights by States which are not parties to the International Covenants on Human Rights, recommended to the Commission by the Sub-Commission on the Promotion and Protection of Human Rights (E/CN.4/2001/2-E/CN.4/Sub.2/2000/46, chapter I; draft decision 11)

35. Mr. AL SHEIKH (Saudi Arabia), drawing attention to Commission resolution 2000/67 of 26 April 2000, said that the draft decision recommended by the Sub-Commission related to a matter of which the Commission was already seized. If adopted, it would effectively extend the period of work of the Sub-Commission. In view of the fact that the Commission had decided to limit the Sub-Commission's sessions to three weeks, his delegation proposed the following draft decision for the Commission's consideration:

> "At its 78th meeting, on 25 April, 2001, the Commission on Human Rights, taking note of resolution 2000/23 of 18 August 2000 of the Sub-Commission on the Promotion and Protection of Human Rights concerning the request for the holding of a seminar, decides that the Sub-Commission should reconsider its request in the light of the developments in its work."

36. The draft decision proposed orally by the delegation of Saudi Arabia was adopted.

37. Mr. MENDONÇA e MOURA (Portugal), supported by Ms. GLOVER (United Kingdom), Mr. DE PALACIO ESPAÑA (Spain), Mr. MORENO (Italy), Mr. NOIRFALISSE (Belgium) and Mr. MAGRO (France), said he hoped that, when re-examining the issue, the Sub-Commission would find it useful and important to hold the

proposed seminar of States that were not parties to the two International Covenants on Human Rights on obstacles to their ratification and ways of surmounting them as a matter of priority.

38. Mrs. IZE-CHARRIN (Secretary of the Commission), responding to a question by Mr. REYES RODRÍGUEZ (Cuba), said that the consideration of certain draft texts (E/CN.4/2001/L.87, L.88 and L.96 and E/CN.4/2001/2-E/CN.4/Sub.2/2000/46, chapter I, draft decision 14) would unfortunately have to be postponed for a few hours until their financial implications had been confirmed by the Secretariat.

Draft resolution on impunity (E/CN.4/2001/L.77/Rev.1)

39. Ms. VENTURA (Canada), introducing the draft resolution, said that its sponsors were drawn from all regions of the world. The failure of States to acknowledge gross violations of human rights that had occurred in their territory, and to hold those responsible for such violations accountable, was one reason why genocide, extrajudicial killings, enforced disappearances and torture continued to be committed.

40. In the eleventh preambular paragraph and paragraph 7, the words "in various countries" should be replaced by the words "currently under consideration in a few countries". In paragraph 7 also, the words "consider ways to" should be added before the words "support the initiatives".

41. Mrs. IZE-CHARRIN (Secretary of the Commission) said that the representatives of Belgium, Chile, Costa Rica, Czech Republic, Ecuador, Germany, Latvia, Poland, Portugal, Republic of Korea, Romania, South Africa and the United Kingdom, and the observers for Angola, Armenia, Austria, Bosnia and Herzegovina, Ethiopia, Finland, Georgia, Greece, Haiti, Hungary, Netherlands, Sweden and the former Yugoslav Republic of Macedonia, had become sponsors of the draft resolution.

42. Mr. LIU Xinsheng (China), speaking in explanation of vote before the voting, said that his Government continued to attach importance to the issue of impunity, as evidenced by a variety of measures recently introduced at the domestic level. His delegation also recognized the importance of international cooperation on the issue, which was why it had joined the consensus on a similar draft resolution at the previous session.

43. With respect to the text currently under consideration, however, his delegation had decided to abstain; not only had it not been invited to participate in all consultations, but because its concerns had not been accommodated. Such an approach to the drafting of resolutions led to confrontation in the Commission and regrettably caused many draft texts that might have been adopted by consensus to be put to a vote.

44. Mr. REYES RODRIGUEZ (Cuba) expressed surprise at the absence of any mention of the impunity enjoyed by the Israeli authorities with regard to the grave violations of human rights being perpetrated in the occupied Palestinian territories. Had discussions been more participatory from the start, it might have been possible to reach consensus; as it was, his delegation would be forced to abstain. In future, draft resolutions on the subject should take a

comprehensive approach to situations of human rights violations; they should also adopt a balanced approach to violations of civil and political rights and violations of economic, social and cultural rights.

45. Mr. SABHARWAL (India) said that his delegation had serious reservations regarding the increasing adulatory references to the International Criminal Court and the Rome Statute. The latter had several deficiencies: it brought under the jurisdiction of the International Criminal Court crimes that were within the national jurisdiction of States, it did not include terrorism as a crime against humanity and it gave special discriminatory powers to the United Nations Security Council to refer cases to, or block their consideration by, the Court. For those reasons, his Government had not yet signed the Statute and it did not believe that the adoption thereof could be regarded as an event of historic significance. It also had reservations regarding the prescriptive language used, for example, in paragraph 7. It would therefore abstain from voting on the draft resolution.

46. Mr. SAHRAOUI (Algeria) expressed regret that, due to the fact that China had not been included in the consultations and the reference in the draft resolution to the Rome Statute which was not yet in force, it would not be possible to reach a consensus. But for the fact that a roll-call had already been requested, he would have urged delegations to make a further effort to reach consensus. His delegation would, however, vote in favour of the text.

47. At the request of the representative of China a vote was taken by roll-call on the draft resolution.

48. Thailand, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Algeria, Argentina, Belgium, Brazil, Burundi, Cameroon, Canada, Colombia, Costa Rica, Czech Republic, Ecuador, France, Germany, Guatemala, Indonesia, Italy, Japan, Kenya, Latvia, Madagascar, Mauritius, Mexico, Niger, Nigeria, Norway, Peru, Poland, Portugal, Republic of Korea, Romania, Saudi Arabia, Senegal, South Africa, Spain, Swaziland, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela, Zambia.

Against: None.

Abstaining: China, Cuba, Democratic Republic of the Congo, India, Libyan Arab Jamahiriya, Malaysia, Pakistan, Qatar, Russian Federation, Syrian Arab Republic, Thailand, United States of America, Viet Nam.

49. The draft resolution was adopted by 39 votes to none, with 13 abstentions.

50. Mr. MOOSE (United States) said that, despite his delegation's strong commitment to the principle of individual criminal responsibility and the responsibility of States to prosecute those responsible for genocide, crimes against humanity and violations of international humanitarian law, it had had to abstain from voting because of its fundamental concerns regarding the eighth and tenth preambular paragraphs and paragraphs 3, 4 and 6.

51. Mr. BELL LEMUS (Colombia) said that, because of excessive haste, the Commission was destroying the possibility of reaching consensus on issues of the utmost importance for the promotion of human rights.

52. Mr. NAESS (Norway) said that, although his delegation had voted in favour of the draft resolution, it had reservations about the language of several paragraphs. Those reservations also applied to other resolutions which had been adopted at the current session. Human rights obligations rested solely with Governments. No human rights violation as such constituted a criminal offence. The international community could only call on States to bring the perpetrators of criminal offences to justice, either under domestic law or under international law. His comments did not, however, signify any lessening of his Government's strong support for the fight against impunity.

Draft resolution on human rights and bioethics (E/CN.4/2001/L.87)

53. Mr. HENAULT (France), introducing the draft resolution, said it invited the Secretary-General to consider establishing a working group of independent experts to reflect, in particular, on the possible follow-up to the Universal Declaration on the Human Genome. It also thanked the Governments that had responded to the request for information in Commission resolution 1999/63.

54. Mrs. IZE-CHARRIN (Secretary of the Commission) said that the representatives of Algeria, Burundi, Cameroon and France and the observers for Georgia, Greece, Israel and Sweden had joined the sponsors of the draft resolution, which had no financial implications.

55. The draft resolution was adopted.

Draft resolution on the role of good governance in the promotion of human rights (E/CN.4/2001/L.88).

56. Mr. MONTWEDI (South Africa), introducing the draft resolution, said that it sought in a modest way to deal with good governance at the national level. He hoped that it could be adopted by consensus.

57. Mrs. IZE-CHARRIN (Secretary of the Commission) announced that the representative of Cameroon and the observers for Azerbaijan, Cyprus, Ghana, Mauritius and Netherlands had become sponsors of the draft resolution.

58. The draft resolution was adopted.

59. Ms. KUNADI (India) said that her delegation had joined the consensus because it agreed with the principles outlined in the third, fifth and sixth preambular paragraphs. However, paragraph 4 was ambiguous. Each State was free to choose the good governance practices that best suited it; such practices could not be imposed from outside.

60. Mr. SAHRAOUI (Algeria) said that his delegation had gone along with the draft resolution even though it would have preferred paragraph 1 to say that transparent government was one of the foundations rather than the foundation on which good governance rested.

Draft resolution on human rights and international solidarity (E/CN.4/2001/L.96)

61. Mr. REYES RODRIGUEZ (Cuba), introducing the draft resolution, said that, while the importance of international cooperation had repeatedly been stressed, the commitment of the international community had not always been followed by action as demonstrated by the steady decline in official development assistance (ODA) in recent years. In answer to the urgings of the representative of a developed country, the sponsors had decided not to press for the appointment of an independent expert on the promotion of international solidarity. Accordingly, paragraphs 4, 5 and 6 of the text should be deleted. However, they reserved the right to take the matter up again at the Commission's next session if no real progress had been made by then. They hoped that the text could be adopted by consensus.

62. Mrs. IZE-CHARRIN (Secretary of the Commission) announced that the representatives of India, Kenya and Madagascar and the observers for Tunisia and Yemen had joined the sponsors of the draft resolution.

63. Mr. WATANABE (Japan), speaking in explanation of vote before the voting, said that, while his Government was willing to discuss the impact of economic issues on human rights in the Commission, it believed that some draft resolutions, including the one under consideration, seemed to go beyond the Commission's mandate. Its subject would be better dealt with in forums with a more appropriate mandate and stronger expertise such as the Development Assistance Committee (DAC) of the Organization for Economic Cooperation and Development (OECD), the World Trade Organization (WTO), the World Bank and the International Monetary Fund (IMF). Those forums should be asked to consider whether the ideas insisted upon by some States were truly viable.

64. In the current discussion, some countries emphasized an "obligation" to international cooperation, while overlooking the most important element for development, which was each country's responsibility for and ownership of its development efforts, and the endeavours made by international organizations on behalf of development. Such a lopsided emphasis and the conspicuous omission of vital elements would worsen the chances of closer cooperation between the recipient countries and donors.

65. Despite a severe domestic economic situation, Japan had been the world's largest donor of ODA since 1991, and his Government would face difficulties convincing its public to support the continued extension of such assistance if they felt forced to do so with an unnecessary pretence of "obligation". His delegation found it totally impossible to support the draft resolution.

66. Ms. GERVAIS-VIDRICAIRE (Canada), speaking also on behalf of the delegation of Norway, said that, despite the revisions that had just been made, her delegation still had concerns about the draft resolution, particularly the paragraphs on globalization and the link between international assistance, development and respect for human rights, which addressed a variety of

complex issues. Although the text was drawn from existing instruments and documents, the quotations were selective or taken out of context. Her delegation was still unclear as to what international solidarity was meant to imply in the context of the draft resolution. The draft resolution also addressed relations between States and not between a State and its citizens, which was what the focus of the Commission should be. The delegations of Canada and Norway would vote against the draft resolution.

67. Mr. NOIRFALISSE (Belgium), explaining the position of the European Union and its associated countries on the draft resolution, said that the Union firmly believed that the promotion and protection of human rights and fundamental freedoms of citizens remained the primary responsibility of the State. The relationship between the State and its citizens and the full exercise of individuals' human rights vis-à-vis the State was the core mandate of the Commission, but the draft resolution dealt only with the relationship between States.

68. The Union strongly supported an effective follow-up to the commitments undertaken at the Millennium Summit, but to achieve the goal of halving by 2015 the proportion of the world's people whose income was less than US$ 1 a day would require the creation of an enabling environment at national and global levels, as well as political dialogue, respect for human rights, democratic principles, rule of law and good governance within each country. The Union fully recognized the importance of international cooperation in mobilizing resources needed by developing countries to finance sustained development. However, the draft resolution failed to reflect the advances and efforts made by the international community and the relevant international organizations in addressing the obstacles to development, and the Union questioned the value of promoting an initiative on international solidarity without due regard to consensus resolutions and decisions adopted in other forums. The Union welcomed the revisions made by the representative of Cuba, but could not support the draft resolution and its members and associates which were members of the Commission would vote against it.

69. Mr. MAGRO (France), having endorsed the statement made by the representative of Belgium on behalf of the European Union and thanked the representative of Cuba for his revisions, said that that initiative had, unfortunately, come too late to allow for its full discussion. France would thus be voting against the draft resolution.

70. At the request of the representative of the United Kingdom, the vote was taken by roll-call on the draft resolution.

71. Indonesia, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Algeria, Argentina, Brazil, Burundi, Cameroon, China, Colombia, Costa Rica, Cuba, Democratic Republic of the Congo, Ecuador, Guatemala, India, Indonesia, Kenya, Libyan Arab Jamahiriya, Madagascar, Malaysia, Mauritius, Mexico, Niger, Nigeria, Pakistan, Peru, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Swaziland, Syrian Arab Republic, Thailand, Uruguay, Venezuela, Viet Nam, Zambia.

Against: Belgium, Canada, Czech Republic, France, Germany, Italy, Japan, Latvia, Norway, Poland, Portugal, Republic of Korea, Romania, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: None.

72. The draft resolution was adopted by 36 votes to 16.

73. Ms. GLOVER (United Kingdom) said that, in addition to the reasons adduced on behalf of the European Union, her delegation had voted against the draft resolution because it quoted selectively and not always accurately from key documents which were relevant to the important field of international development cooperation. Her Government attached too much importance to international development and to the relevant agreements built on consensus over recent years to accept that.

74. The resolution also contained elements, which had been discussed and debated at length in the working group on the right to development, relating to the notion that States - because of constraints stemming from the international environment - could in some way be relieved of their obligations to promote and protect the human rights for their citizens. Her delegation could not agree to anything that sought to weaken the primary responsibility of States in that field. The resolution in essence dealt with the relationship that existed, or should exist, between States, and not the relationship between States and their citizens, which was the proper business of the Commission.

Draft decision on human rights and human responsibilities recommended to the Commission by the Sub-Commission on the Promotion and Protection of Human Rights (E/CN.4/2001/2-E/CN.4/Sub.2/2000/46, chapter I, draft decision 14)

75. Ms. WONG (Office of the High Commissioner for Human Rights) said that no provisions had been made under the Programme Budget for the current biennium and the proposed programme budget for the biennium 2002-2003 for the activities referred to in the draft decision. The costs were estimated at US$ 30,100 for 2001, US$ 35,300 for 2002 and US$ 5,200 for 2003. Every effort would be made to absorb those costs within existing resources.

76. Mr. REYES RODRÍGUEZ (Cuba) said that the draft decision concerned the implementation of a mandate that had already been granted. He wished merely to point out that the relationship between human rights and human responsibilities was as old as the doctrine of human rights itself, and lay behind the Universal Declaration of Human Rights.

77. Mr. NOIRFALISSE (Belgium), explaining the position of the European Union and its associated countries on the draft resolution, said that the Union had expressed serious reservations in the Commission at its previous session regarding resolution 2000/63 on human rights and human responsibilities, which had been adopted by a vote. Those reservations were still valid. While the Union acknowledged the importance of moral, ethical and even philosophical issues which underpinned the debate on the relationship between the individual,

his or her community and the State, it did not subscribe to the idea that human rights could be enjoyed or protected only if that same individual fulfilled his or her obligations vis-à-vis the community and/or the State. Each individual's human rights should be promoted and protected unconditionally.

78. Neither the Commission nor the Sub-Commission should be regulating specific responsibilities of the individual towards the State. The main responsibility for legal regulation of minimum standards for individual behaviour rested with the State through legislation, including penal law, and its jurisdiction within the limits set by international human rights standards and obligations. The Commission and Sub-Commission should focus their work on human rights and on the duties of the State towards the individual.

79. The International Bill of Rights set out the limits of the ability of Governments to restrict or infringe upon the individual's human rights. It stated that everyone should be subject only to such limitations as were determined by law for the purposes of securing due recognition and respect for the human rights and freedoms of others and of meeting the just requirement of morality, public order and the general welfare of a democratic society. The very reference to duties and responsibilities might be used by Governments to impose limits or restrictions upon existing internationally recognized standards, and had to be firmly rejected.

80. The Union did not support the request by the Sub-Commission for a study on the issue or anything related to the subject. The Union was also concerned that, by asking the Sub-Commission expert to present his report directly to the Commission, the draft decision was ignoring normal practice whereby reports were first discussed by the Sub-Commission. That undermined the Sub-Commission's collective advisory role, reaffirmed in Commission resolution E/CN.4/2001/L.100 adopted only the day before by consensus. That resolution stated that the Sub-Commission should give full consideration to studies and working papers by special rapporteurs and its members before sending them to the Commission.

81. For the reasons stated, those members of the Union and associated countries that were members of the Commission would vote against the draft decision. The Union also reserved its right to submit its comments on the note submitted by the proposed special rapporteur (E/CN.4/2001/96).

82. Mr. REYES RODRÍGUEZ (Cuba), speaking in explanation of vote before the voting, drew attention to the fact that the proposed special rapporteur had established clear guidelines regarding his objectives in his note (E/CN.4/2001/96); his sources were to be wide-ranging and were to include individuals of high standing in the human rights field in the North. All delegations committed to fulfilling the Commission's mandate should join his delegation in voting for the draft decision.

83. Mr. SAHRAOUI (Algeria) drew attention to paragraph 6 (b) of the resolution on the work of the Sub-Commission (E/CN.4/2001/L.100) which the Commission had adopted by consensus. The paragraph referred to the considerable latitude which the Sub-Commission had to give particular attention to the selection of studies specifically recommended by the Commission.

84. At the request of the representative of Belgium, a vote was taken by roll-call on the draft decision.

85. Kenya, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Algeria, Argentina, Brazil, Burundi, Cameroon, China, Colombia, Cuba, Democratic Republic of the Congo, Ecuador, India, Indonesia, Kenya, Libyan Arab Jamahiriya, Madagascar, Malaysia, Mauritius, Mexico, Niger, Nigeria, Pakistan, Peru, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Swaziland, Syrian Arab Republic, Thailand, Uruguay, Venezuela, Viet Nam, Zambia.

Against: Belgium, Canada, Czech Republic, France, Germany, Italy, Japan, Latvia, Poland, Portugal, Romania, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Costa Rica, Guatemala, Norway, Republic of Korea.

86. The draft decision was adopted by 34 votes to 14, with 4 abstentions.

87. Ms. RUIZ de ANGULO (Costa Rica) said that her delegation had abstained not because of the nature of the issue but in order to suggest that the special rapporteur should work without prejudice regarding individual States and on the basis simply of the evidence.

The meeting rose at 6.15 p.m.